

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SHERI L. LYDIC and TIMOTHY WILEY,	:	CIVIL ACTION NO. 1:05-CV-0904
	:	
Plaintiffs	:	(Judge Conner)
	:	
v.	:	
	:	
ROBERT ROTZ, et al.,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 13th day of March, 2006, upon consideration of the motions (Docs. 26, 28), filed by the United States, to substitute itself for defendant Robert Rotz (“Rotz”) with respect to plaintiffs’ state law claims and to dismiss these claims, and it appearing that plaintiffs have not filed briefs in opposition to the motions,¹ see L.R. 7.6 (“Any party opposing any motion shall file a responsive brief . . . [or] shall be deemed not to oppose such motion.”), and it further appearing that, at the time of the alleged conduct, defendant Rotz was acting within the scope of his employment (see Doc. 27, Ex. A), and that plaintiffs did not file an administrative claim with the Department of the Army, and the court finding that the substitution of the United States for defendant Rotz with respect to plaintiffs’ state law claims is appropriate, see 28 U.S.C. § 2679(b), (d) (“Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or

¹ By the order of court dated December 13, 2005 (Doc. 39), the court granted an enlargement of time for plaintiffs to file briefs, on or before December 27, 2005, in opposition to the motions (Docs. 26, 28). As of the date of this order, plaintiffs have not filed a brief in opposition to either motion.

employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a United States district court shall be deemed an action against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant.”), and that dismissal of these claims against the United States is warranted, see 28 U.S.C. § 2675(a) (“An action shall not be instituted upon a claim against the United States . . . caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied . . .”), it is hereby ORDERED that the motions (Docs. 26, 28) to substitute and to dismiss are GRANTED as follows:

1. The Clerk of Court is directed to SUBSTITUTE the United States for defendant Robert Rotz with respect to plaintiffs’ state law claims in the above-captioned case. See 28 U.S.C. § 2679(b), (d).
2. All state law claims against defendant Robert Rotz are DISMISSED. See 28 U.S.C. § 2679(b), (d).
3. All claims against the United States are DISMISSED. See 28 U.S.C. § 2675(a).

/s/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge